



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/394,536	09/10/1999	BRIAN T. WEBB	5577-177	4362

20792 7590 03/24/2003

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

EXAMINER

CHOUDHARY, ANITA

ART UNIT	PAPER NUMBER
----------	--------------

2153

DATE MAILED: 03/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/394,536

Applicant(s)

WEBB ET AL.

Examiner

Anita Choudhary

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Art Unit: 2153

DETAILED ACTION

Response to Amendment

This is a Final Action in response to Applicant's second amendment filed on January 15, 2003 under 37 CFR 1.312 has been entered. Claims 1, 3, 4, 5, 7, 8, 10-12, 14, 15, 18, 19, 21-23, 25-27, 29, 30, and 32-34 have been amended and are presented for further examination.

Claims 1-36 are presented for further examination.

Response to Arguments

Applicant's arguments with respect to claim 1, 6-8, 11, 12 17-19, 22, 23, 28, 29, 30, 33, and 34 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's other arguments filed January 15, 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the amended claims are not patentable over Nakabayashi (US Patent 5,905,866) in view of Butts et al (US Patent 5,754,830).

Art Unit: 2153

Applicant argues that this combination does not disclose or suggest all of the recitations of the claims. Nakabayashi shows a communications network including client and host. A system is disclosed wherein an access management unit transfers request for data to a communications host in response to an instruction from a user. Nakabayashi shows “information based on information formatted for character terminal of a host system”. The client requested data is converted, for formatting, and transferred by the communication control unit to the access management unit, where the user can then retrieve the requested host data (col. 12 lines 36-52). While Nakabayashi shows host as web server, he does not show host being a legacy host system. Nonetheless, having a host being a legacy host system is an obvious modification as evidenced by Butts. Butts discloses a system similar to Nakabayashi. Butts shows user accessing a server system to obtain real time data updates from a legacy host system. Given the features of a legacy host system a person having ordinary skill would have readily recognized the advantage of being able to access a legacy host system for data requests. The motivation to combine Nakabayashi and Butts can be found in Butts reference (see col. 1 lines 12-40). Many organizations operate networks using legacy host systems which store data and provide applications important to the operations of the organizations, and so it is desirable to provide such information originating from legacy host systems to terminal sessions on distributed client systems like computer workstations and personal computers.

Applicant also argues that Butts does not disclose or suggest recitation of the amended claim including notification code. However Butts clearly does show the extraction and execution of notification code. The applet code, functioning as the claimed notification code, is downloaded and executed on the client system as disclosed by Butts (col. 4 lines 32-67, col. 5

Art Unit: 2153

lines 14-42). Furthermore Butts discloses more than just the connections between components. Like Nakabayashi (col. 12 lines 36-54), Butts also discloses “information based on information formatted for character terminal of a host legacy system”. The legacy data flows are translated for display to the user, as shown by Butts (col. 6 lines 10-26, col. 1 line 31-33). Motivation to combine this feature with Nakabayashi would have been known to one of ordinary skill in the art. An applet code is used so that used does not have to continuously send request back to server.

In response to applicant's arguments against Butts individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Butts is not relied on to reject the particulars of lines 11-14 of claim 1. Instead, Nakabayashi is used to reject these limitations as in the previous Office action (page 3 line 16- page 4 line 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-36 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Nakabayashi et al. (hereinafter Nakabayashi, US Patent 5,905,866) in view of Butts et al (hereinafter Butts, US Patent 5,754,830).

In referring to amended claims 1, 8, 12, 19, 23, 30, and 34, Nakabayashi shows:

- Establishing a first connection between a client and server application (col. 47 line 52-63)
- Server application providing updated host screen information to client application in response to request from client (col. 47 line 64- col. 48 line 13).
- Updated host information is based on information formatted for character terminal of a host legacy system (col. 12 line 36-52).
- Establishing a second connection between monitor application and server application (col. 48 lines 26-37).
- Receiving a notification of availability of host screen information over the second connection (col. 48 lines 13-25). *client - data monitor server*
- Requesting the updated host screen information over the first connection responsive to the receiving the notification (col. 48 lines 13-25). *client - web server*
- Receiving the updated host screen information at the client (col. 48 lines 26-44)
- Displaying the received updated host screen information using the client application (fig. 48).

Although Nakabayashi shows substantial features of the claimed invention, Nakabayashi does not shows the host being a legacy host system. Nonetheless this feature would have been an obvious modification to the system disclosed by Nakabayashi as disclosed by Butts.

In an analogous art, Butts shows user accessing a server system to obtain real time data updates from a legacy host system. Butts shows the host being a legacy host system commonly used by organizations (col. 3 lines 16-22).

Given the features of a legacy host system a person having ordinary skill would have readily recognized the advantage of being able to access a legacy host system for data requests in order to provide data originating from legacy host systems used by many organizations, to terminal sessions on distributed client systems like computer workstations and personal computers.

In referring to claim 2, 3, 9, 10, 13, 14, 20, 21, 24, 25, 31, 32, and 36, Butts et al disclose:

- An applet (notification code) downloaded and executed by client for real-time update information (col. 3 lines 53- col. 6 line 26).

Butts employs an applet code for providing the update. Executable code for an applet process is downloaded to the client system and applet process is executed under the client web browser at time of update (see col. 2 lines 15-30; col. 5 lines 14-43).

Given the teachings of Butts one of ordinary skill in the art would have readily recognized the desirability and advantages of modifying Nakabayashi by employing the well known features of an applet for updates, such as disclosed by Butts in order to provide client with dynamic method to handling real-time host updates to user screens.

In regards to claim 4, 15, and 26, Butts shows the update host screen information comprising of Markup language as well known (col. 1 lines 30-40).

In regards to claim 5, 16, and 27, Butts discloses the host information comprising of terminal emulation information coming from a web/emulation server. Web browser invokes a terminal session to access data and on the host system (col. 3 line 66- col. 4 line 31).

In regards to claim 6, 17, and 28; the connections between data monitor server and host web server are conducted through a single communications link though a service provider to the Internet (fig. 40; col. 47 lines 56-61).

In referring to claim 7, 11, 18, 22, 29, and 33, Nakabayashi shows the data monitor server having more than one client for providing update information (col. 48 lines 51-59).

In regards to claim 35, Butts shows connections comprising of sockets (fig. 1 item 44; col. 4 lines 15-31).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 2153

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

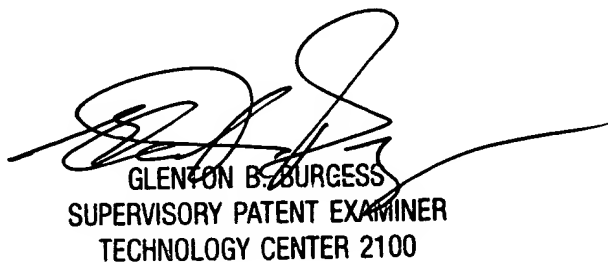
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita Choudhary whose telephone number is (703) 305-5268.

The examiner can normally be reached on 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703) 305-4792. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

AC
March 11, 2003



GLENTON B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100